

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CAVE CONSULTING GROUP, LLC,
Plaintiff,
v.
OPTUMINSIGHT, INC.,
Defendant.

Case No. 5:11-cv-00469-EJD

**ORDER DENYING PLAINTIFF'S
SECOND ADMINISTRATIVE MOTION
TO SUPPLEMENT THE RECORD;
DENYING ADMINISTRATIVE
MOTIONS TO FILE UNDER SEAL**

Re: Dkt. Nos. 474, 475, 476

Plaintiff Cave Consulting Group, Inc. ("CCGroup") has filed a motion to supplement the record regarding its Motion for Permanent Injunction and to Set Ongoing Royalty Rate (Dkt. No. 385-6), as well as a motion to file under seal certain materials submitted therewith. Dkt. Nos. 474, 475. Defendant OptumInsight, Inc. ("OptumInsight,") has filed a response, also accompanied by a motion to file under seal certain portions of its submission. Dkt. No. 476.


On September 7, 2016, the Court denied CCGroup's Motion for Permanent Injunction and to Set Ongoing Royalty Rate, determining that "it would be appropriate to delay the consideration of evidence and calculating the ongoing royalty rate until after the completion of the appeals in this case." Dkt. No. 456 at 45. CCGroup filed a motion seeking reconsideration of the Court's decision to delay its determination of an ongoing royalty rate, Dkt. No. 457, and with the Court's leave, OptumInsight filed a response, Dkt. No. 473. In its response, OptumInsight argued that the same jurisdictional issues raised in CCGroup's motion for reconsideration are currently being considered by the Federal Circuit, as OptumInsight has appealed the Court's decision to the

1 Federal Circuit and the parties have now fully briefed a motion to dismiss at the Federal Circuit on
2 the same grounds. Dkt. 473 (citing *Cave Consulting Group, Inc. v. OptumInsight, Inc.*, No. 17-
3 1060 (Fed. Cir.), Dkt. Nos. 26, 27, 28). This point is persuasive to the Court, as the Federal
4 Circuit is the more appropriate judge of its own jurisdiction. Further, the Court does not want to
5 take any action that may alter or disrupt the Federal Circuit's current consideration of CCGroup's
6 motion to dismiss. As such, the Court will delay consideration of CCGroup's motion for
7 reconsideration until the Federal Circuit has decided CCGroup's motion to dismiss or until
8 otherwise necessary or appropriate.

9 Because the Court is, at present, delaying its decision on CCGroup's motion for
10 reconsideration, there is no current need to supplement the record. As such, the Court DENIES
11 WITHOUT PREJUDICE CCGroup's motion to supplement the record. Further, because the
12 Court is not presently accepting CCGroup's supplemental material, its motion to seal is DENIED
13 as moot. OptumInsight's motion to seal is also DENIED as moot.

14 **IT IS SO ORDERED.**

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16 Dated: February 13, 2017

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18 EDWARD J. DAVILA
United States District Judge